

**THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

JOHN BARNHARDT, ET AL.

PLAINTIFFS

and

UNITED STATES OF AMERICA

PLAINTIFF-INTERVENOR

v.

CIVIL ACTION NO. 4:65-cv-1300-HTW-LGI

**MERIDIAN MUNICIPAL SEPARATE
SCHOOL DISTRICT, ET AL.**

DEFENDANTS

SECOND MOTION TO MODIFY DESEGREGATION PLAN AND FOR EXPEDITED CONSIDERATION

Pending before the Court is the Joint Motion for Preliminary Approval of Settlement Agreement and Authorization of Notice to the Plaintiff Class Pursuant to Rule 23(E) of the Federal Rules of Civil Procedure, filed on August 9, 2019. [158]. The Court has not ruled on that motion. Therefore, the District has not been declared unitary. Due to aging facilities, declining student enrollment, and the financial hardship involved in operating too many elementary buildings with limited numbers of students, the Board of Education voted on March 21, 2023, to adopt a plan to reconfigure its elementary schools.¹ The District now submits a second motion to modify its desegregation plan.²

¹ On March 22, 2023, Dr. Amy Carter sent a letter to this Court and all counsel describing the District's proposed elementary reconfiguration. A copy of Dr. Carter's letter is attached as Exhibit 2.

² The District also has a pending Motion to Modify Desegregation Plan and for Expedited Consideration related to the closure of Carver Middle School for the 2022-2023 school year. [167].

The District submits this motion asking the Court to enter an Order modifying the existing desegregation plan to approve the reconfigured student attendance zones for students in grades PreK through five as shown on the map attached as Exhibit 1 to this motion and described more fully below.

The District presents the following in support of its motion:

1. On May 10, 1965 private plaintiffs, then-minor students, by their parents, initiated this lawsuit against the District, seeking disestablishment of its racially dual school system. Shortly after, on June 28, 1965, this Court granted the United States leave to intervene as a plaintiff.

2. On November 7, 1969, the Court of Appeals for the Fifth Circuit issued an Order (“November 7, 1969 Order”) enjoining the District from operating a dual school system based on race or color and requiring the District to operate a unitary school system wherein no person is effectively excluded from any school because of race or color. The Fifth Circuit ordered the immediate implementation of a desegregation plan (the “Plan”) prepared by the United States Department of Health, Education, and Welfare. The November 7, 1969 Order allowed modifications to the Plan after consideration by United States District Court Judge Dan M. Russell, Jr., subject to further order by the Fifth Circuit Court of Appeals.

3. By Order of November 19, 1969 (“November 19, 1969 Order”), the Fifth Circuit approved an amendment to the Plan, redrawing attendance zones for seventh, eighth, and ninth grade students to attend four schools: Carver Junior High School, Magnolia Junior High School, Kate Griffin Junior High School, and Northwest Junior High School.

4. On July 14, 1970, Judge Russell issued findings of fact and recommendations for additional amendments to the Plan's geographical attendance zones for assignment of students in grades one through six to ten elementary schools. On July 20, 1970, the Fifth Circuit approved these amendments to the Plan according to Judge Russell's recommendation.

5. On February 7, 1973, the Fifth Circuit transferred the case to the District Court.

6. On June 19, 2009, this Court entered an order allowing the District to close Kate Griffin Junior High and reassign all sixth through eighth-grade students to Carver Middle School, Magnolia Middle School, or Northwest Middle School based on new attendance zone lines.

7. On August 9, 2019, the District and the LDF submitted a Joint Motion for Preliminary Approval of Settlement Agreement and Authorization of Notice to the Plaintiff Class Pursuant to Rule 23(E) of the Federal Rules of Civil Procedure. [158]. Despite several status conferences since filing the Joint Motion, the Court has yet to rule on the pending motion or set an evidentiary hearing / fairness hearing. This delay is harmful to the District, because it requires the District to continue the onerous and expensive process of submitting bi-annual reports to the Parties and to continue seeking judicial approval of local Board decisions related to the rezoning of students.

8. At present, the District operates six elementary schools, each serving grades PreK through five: Crestwood, Oakland Heights, Parkview, Poplar Springs, T.J. Harris, and West Hills.

9. On March 21, 2023, the District's Board of Trustees unanimously voted to adopt a plan to reconfigure the District's elementary schools. Under the proposed plan, Oakland Heights and T.J. Harris Upper would be closed to students, and Carver Middle would be reopened as an elementary school. The resulting configuration would be:

- Carver Middle School will reopen as an elementary school housing students formerly assigned to Oakland Heights, to be renamed Carver Elementary.
- Close T.J. Harris Elementary and divide those students between Carver Elementary and Crestwood Elementary.
- T.J. Harris Lower campus will become the Little Wildcat Academy for all PreK students. The District would also like to expand services at this location to educate three and four-year olds.
- The remaining elementary campuses would not be impacted by the reconfiguration plan at this time: Parkview, Poplar Springs, and West Hills.
- The T.J. Harris Upper campus would become the Central Office. A portion of the Central Office staff is already located on that campus. This would allow parents to go to one location to seek assistance or services from District personnel.

10. With the assistance of its routing software company, the District has reconfigured student attendance zones for the elementary schools. A map of the proposed new elementary student attendance zones is attached as Exhibit 1 to this motion.

11. The Meridian Public School District is currently 91.8% black, 3.2% white, and 5% other. The proposed elementary reconfiguration will not hinder desegregation nor serve to perpetuate or re-establish the dual school system. The chart below demonstrates that the new configuration allows the remaining elementary schools to accommodate former Oakland Heights and T.J. Harris students without affecting, to any great extent, the student racial enrollment in those schools.

For the 2022-2023 school year, enrollment at the District's elementary schools is:

SCHOOL	BLACK	WHITE	OTHER	TOTAL
Crestwood	222 (87.7%)	5 (1.9%)	26 (10.2%)	253
Harris Lower	190 (96.4%)	1 (.5%)	6 (3.0%)	197
Harris Upper	163 (98.7%)	0	2 (1.2%)	165
Oakland Heights	303 (91.5%)	11 (3.3%)	17 (5.1%)	331
Parkview	396 (95.8%)	5 (1.2%)	12 (2.9%)	413
Poplar Springs	328 (79.6%)	48 (11.6%)	36 (8.7%)	412
West Hills	455 (95.1%)	5 (1.0%)	18 (3.7%)	478

For the 2023-2024 school year, projected elementary school enrollment is:

SCHOOL	BLACK	WHITE	OTHER	TOTAL
Carver	447 (93.7%)	11 (2.3%)	19 (4.0%)	477
Crestwood	311 (91.7%)	5 (1.5%)	23 (6.8%)	339
Parkview	334 (95.1%)	5 (1.4%)	12 (3.4%)	351
Poplar Springs	276 (78.6%)	41 (11.6%)	34 (9.6%)	351
West Hills	385 (95.0%)	4 (0.9%)	16 (3.9%)	405

12. The District's recommendation to close Oakland Heights and reconfigure T.J. Harris is not prohibited by law: "[S]chools may be closed for non-racial reasons." *Mims v. Duval County Sch. Bd.*, 447 F.2d 1330, 1331 (5th Cir. 1971). The District's recommendations are related to aging facilities, declining student enrollment, and a desire to be better stewards of taxpayer money, all of which are entirely unrelated to race. Additionally, the District has

fulfilled its responsibility to “see to it that future school construction and abandonment are not used and do not serve to perpetuate or re-establish the dual system” by analyzing the impact of the closures on the racial composition of each school. *Swann v. Charlotte Mecklenburg Bd. of Educ.*, 402 U.S. 1, 21 (1971).

13. The Department of Justice does not oppose this District’s motion. Exhibit 3.

14. The District respectfully requests that this Motion be heard expeditiously and be brought before the Court as soon as practicable.

Because this motion is simple and straightforward, the District requests the requirement for an accompanying memorandum be waived.

WHEREFORE, PREMISES CONSIDERED, the Meridian Public School District respectfully requests that the Court enter an Order allowing the District to modify its desegregation Plan to approve the reconfigured student attendance zones for students in grades PreK through five as shown on the map attached as Exhibit 1.

Respectfully submitted this the 18th day of May, 2023.

MERIDIAN PUBLIC SCHOOL DISTRICT

/s/ John S. Hooks

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CERTIFICATE OF SERVICE

I, John Hooks, certify that I have this day caused a true and correct copy of the above document to be filed with the Clerk of Court via the CM/ECF System, which caused notice of filing to be served on all counsel of record.

Dated: May 18, 2023.

/s/ John S. Hooks

John S. Hooks